

REMARKS

The Examiner has restricted claims in the present application into two groups:

Group I: comprising claims 1-6, 13-25, and 29-31, drawn to hermetically sealed optoelectronic packages, classified in class 385, subclass 94; and

Group II: comprising claims 7-12, 26-28, and 32-34 drawn to a method of hermetically sealing an optoelectronic package, classified in class 219, subclass 121.1.

First, for a restriction requirement to be proper the Examiner must show distinctive inventions are being claimed as well as a serious burden on the Examiner if the application is not restricted. Here, Applicant notes no substantial distinctions between Groups I and II which would necessitate a serious burden. Indeed, both groups are related to hermetically sealed optoelectronic packages. A difference between the two groups simply being one being an apparatus and one being a method for making, but reciting similar features. However, it would seem that a prudent search for either group would overlap and be co-extensive.

Second, the Examiner has indicated the classes and subclasses where this technology is likely categorize within the Office. In particular the Examiner asserts that the “apparatus” claims are classified in class 385, subclass 94; and the “method” claims are classified in class 219,

subclass 121.1.

Class 385, subclass 94, is titled “Optical Waveguides” and subclass 94 goes to “housing” which are “Sealed from environment”. The definition of subclass 94 found in the Classification manual is: “Sealed from environment: *This subclass is indented under subclass 92. Subject matter wherein the housing provides a hermetic barrier between the connection and ambient conditions*”.

Class 219, subclass 121.1. is titled “Electrical Heating”. Subclass 121.1 does not appear to exist, however, class 121.11 is defined as: “By Arc: *This subclass is indented under subclass 50. Subject matter where a working arc of charged particles is caused to impinge on a workpiece*”.

Presumably, the Examiner is looking here because ones of the claims include soldering. However, it is respectfully submitted that this particular class and subclass are not likely places to search the present invention. Nevertheless, even if the Examiner were to look here, a thorough search should also include at least Class 385, subclass 94, titled “Optical Waveguides”. Thus, again, there is no undue burden on the Examiner if he is to perform a proper search.

Finally, the burden on the Applicant is believed to outweigh any burden there may be on the Examiner to search the two embodiments of the

invention, particularly since the searches would be co-extensive. Restriction would be unduly burdensome to Applicant, not only in time, but also in money, particularly considering that with the current maintenance fee schedule, each application will cost Applicant upwards of \$10,000 just to maintain over the life of the patent.

Considering these factors, it is respectfully submitted that the restriction requirement is improper since Groups I and II are indeed related. Moreover, the Examiner is respectfully requested to weigh the great burden a restriction would have on Applicant and withdrawal the restriction requirement.

CONCLUSION

In view of the foregoing, it requested that the Examination on the merits of all claims proceed with all due speed. Please charge any shortages and credit any overcharges to Intel's Deposit Account number 50-0221.

Respectfully submitted,

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